

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

IN THE MATTER OF THE
COMPLAINT OF DTC MARINE
SERVICES, INC., AS OWNER OF THE
BARGE 1731, FOR EXONERATION
FROM AND/OR LIMITATION OF
LIABILITY

CIVIL ACTION NO. 3:06-0433

MEMORANDUM OPINION AND ORDER


Complainant DTC Marine Services, Inc., instituted this Complaint for Exoneration or Limitation of Liability and now seeks a transfer of venue. (DTC marine's Motion to Transfer Venue, Doc. #12). Complainant argues that, pursuant to Rule F(9) of the Supplemental Rules for Certain Admiralty and Maritime Claims, this action should be transferred to the United States District Court for the Northern District of West Virginia, Wheeling Division. Claimant Herbert Willet filed, along with his Answer to Complaint, a Response opposing transfer of venue. No reply was filed. The Court **DENIES** Complainant's Motion to Transfer Venue.

Rule F(9) provides for venue in this District because claimant Willet filed, eight months earlier, his lawsuit against DTC Marine in the Mason County, WV, Circuit Court. The Rule allows the Court to transfer venue to a more convenient forum, using the same factors as required under 28 U.S.C. § 1404. Here, the Court finds that the claimant's choice of forum and the other factors weigh in favor of retaining the case in this venue. The witnesses are scattered among the states generally along the Ohio River, but claimant points out that several critical witnesses are closer to this area than to Wheeling. Medical evidence will include treating physicians in the Mason County area. The

possibility that a view of the barge would be appropriate is speculative. That Complainant DTC's offices and personnel records, are closer to Wheeling is insufficient. The Court is not inclined to shift the inconvenience to the claimant. The Motion to Transfer Venue is **DENIED**.

The Court **DIRECTS** the Clerk to send a copy of this written Opinion and Order to counsel of record and any unrepresented parties.

ENTER: September 27, 2006



ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE